

WELCOME AND WORK PLAN

STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE 2017-2018



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Denise Hayman (D - Bozeman)

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COMMITTEE WEBSITE

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ORIENTATION & PLANNING FOR THE 2017-18 INTERIM

This welcome paper covers:

- **Statutory duties**
- **Previous work**
- **Assignments this interim**
- **Work plan framework**
- **Proposed meeting schedule**
- **Decision points**

STATUTORY DUTIES

Jurisdiction

Under sections 5-5-202, 5-5-215 and 5-5-226 of the Montana Code Annotated (MCA), the State Administration and Veterans' Affairs Interim Committee (SAVA) is empowered to sit as a committee, act within its statutorily assigned areas of responsibility, and conduct interim studies as assigned by the Legislative Council.

SAVA *does not* have statutory authority over issues or agencies that are under the jurisdiction of another interim committee. An interim committee may refer an issue to another committee if the committee determines that the other committee is a more appropriate venue for the issue's consideration. The Legislative Council is to resolve any disputes about jurisdiction.

Agency monitoring

SAVA's statutory duties with respect to its assigned agencies are threefold:

- (1) review agency rules;
- (2) monitor agency programs; and
- (3) authorize drafting of agency legislation.

The following agencies are assigned to SAVA for legislative oversight:

- Department of Administration (DOA)* and the following administratively attached entities:
 - Public Employees' Retirement Board
 - Teachers' Retirement Board
 - State Lottery Commission
- Department of Military Affairs (DMA) and the following administratively attached entity:
 - Board of Veterans' Affairs, which governs the Montana Veterans' Affairs Division (MVAD)
- Office of the Secretary of State (SOS) and the following administratively attached entities:
 - Office of Commissioner of Political Practices (COPP)
 - Board of State Canvassers**

Rule review

SAVA's assigned legislative attorney is required to review each of the above agencies' proposed new administrative rules or amendments to rules. As part of this rule-review process, legal staff will notify SAVA members of any concerns about an agency's compliance with the Montana Administrative Procedures Act (MAPA). The legal staff's notification to SAVA members is usually done in the form of a memorandum.

Interim committees do not have the power to prevent a rule or proposed amendment to a rule from being adopted, but a committee does have the power to object to the rule or amendment. If a majority of the committee members vote to object to the rule, the agency is notified and the committee must then address the

* The following entities within or administratively attached to DoA are assigned to other interim committees: the State Compensation and Insurance Fund, the Division of Banking and Financial Institutions, and the State Tax Appeal Board.

** The Board of State Canvassers consists of the Secretary of State, the Attorney General, and the Superintendent of Public Instruction. Section 2-15-412, MCA, allocates the board to the Office of the Secretary of State for administrative purposes only. Under section 13-15-502, MCA, the board must meet within 27 days of a statewide election to certify the election results.

rule at its next meeting. An objection prevents the rule from being adopted for 6-months, during which time the agency may (but is not required to) withdraw or revise its proposed rule or rule change, or the committee may withdraw its objection. More detail about rule review and the rule objection process will be provided to SAVA by legal staff.

By law, each committee meeting agenda must include an item for rule review matters. However, it is up to the committee as a whole to decide whether to ask for a formal presentation of each rule review memorandum, or whether to have a discussion only if committee members have questions or concerns.

Decision Point #1: In general, how does SAVA wish to handle its rule review duties? For example, are committee members comfortable with reviewing legal staff's rule review memorandums prior to the meeting so that the rule review agenda item at each meeting is limited to questions? Or, would committee members rather have a formal presentation on each rule review memorandum at each meeting?

Program monitoring

The committee's program monitoring duties require SAVA to pay specific attention to the following:

- Identifying issues likely to require future legislative attention.
- Identifying opportunities to improve existing laws governing the agency's operations.
- Determining whether citizen experience with the agency may be improved on through legislative action.

Again, it is up to the committee to decide what programs and agencies to focus on and how much time to allocate in its work plan for these program monitoring activities. (See the Work Plan Priorities table on page 14.)

Authorize drafting of agency legislation

Another committee statutory duty is to authorize the drafting of agency legislation. An agency may not submit a bill draft request. A bill draft request may only be initiated by a legislative committee or an individual legislator. However, agency legislation must be introduced before the start of the legislative session. Committee authorization allows legislative staff to begin drafting agency legislation prior to the November election, after which legislators will be requesting their own legislation. Allowing legislative staff to begin drafting agency legislation early means drafters are better able to complete those bill drafts before the election and then focus on legislator bill requests in November. To these ends, statutes provide that each interim committee must review each assigned agency's bill draft proposals and vote on whether to authorize a bill draft request for each agency proposal. However, even if the committee authorizes the bill draft request, the agency still must find a legislator to introduce and sponsor the bill. Interim committees generally receive agency bill proposals for review in late spring or early summer prior to the session.

Reports from agencies to SAVA

Certain statutes require that certain agencies submit a report to SAVA either annually or biennially. These agencies and reports must be submitted in compliance with section 5-11-210, MCA, which establishes a Legislative Services Division clearinghouse for these reports. The statutorily-required reports to SAVA are listed below.

Department of Administration

- Employee Incentive Program Report (section 2-18-1103, MCA).
- Report on information technology activities (section 2-17-512, MCA).
- State of Montana Strategic Information Technology Plan (sections 2-17-521 and 2-17-522, MCA).
- Capitol Complex Advisory Council report (section 2-17-804, MCA).
- Montana Land Information Act report from the State Library (section 90-1-404, MCA).

Department of Military Affairs

- Montana Board of Veterans' Affairs Biennial Report (section 10-2-102, MCA).

Board of Investments

- Retirement System Trust Fund Investments Annual Report (sections 5-11-210 and 17-6-230, MCA).

Public Employees' Retirement Board

- Actuarial reports of the public employee retirement systems (sections 5-11-210 and 19-2-405, MCA).
- Report of the PER Board's work during a fiscal year (sections 5-11-210 and 19-2-407, MCA).

Teachers' Retirement Board

- Copy of the Board's report to Office of Budget and Program Planning detailing fiscal transactions for the biennium (section 19-20-201, MCA).
- Annual actuarial valuation of assets and liabilities of retirement system (sections 5-11-210 and 19-20-201, MCA).

As part of adopting an initial work plan, SAVA decides how it would like to handle receiving these reports. Options range from receiving the reports only in writing to having a formal presentation on and discussion about the report at a committee meeting.

Decision Point #2: How would the Committee prefer to receive these statutorily required reports?

Statutory advisory councils

The statutory advisory councils under SAVA's oversight jurisdiction are listed below:

- State Employee Group Benefits Advisory Council
- Capitol Complex Advisory Council
- Information Technology Board
- 9-1-1 Advisory Council
- Employee Investment Advisory Council

HB 142 (2011) duties

House Bill 142, passed during the 2011 session to eliminate unnecessary statutes, required that every interim each interim committee had to review the statutes requiring reports and establishing advisory councils to determine whether to eliminate the reporting requirement or the advisory council.

A 2017 revision by Senate Bill 8 (Facey), by request of the Economic Affairs Interim Committee, amended this provision of law inserting the underlined text below so that these reporting and advisory council statutes are reviewed only upon the request of a committee member:

"5-5-215. Duties of interim committees. (1) Each interim committee shall: ... (d) review, if requested by any member of the interim committee, statutorily established advisory councils ..."

Decision Point #3: At this point in time, does any Committee member wish to review a statute that requires a report to SAVA or that establishes an advisory council under SAVA's jurisdiction?

Pension oversight duties

The Committee also has very specific duties with respect to the public employee retirement plans. Section 5-5-226, MCA, as amended by during the 2013 Session, states:

"[The committee shall]:

(a) consider the actuarial and fiscal soundness of the state's public employee retirement systems, based on reports from the teachers' retirement board, the public employees' retirement board, and the board of investments, and study and evaluate the equity and benefit structure of the state's public employee retirement systems;

(b) establish principles of sound fiscal and public policy as guidelines;

(c) as necessary, develop legislation to keep the retirement systems consistent with sound policy principles; and

(d) publish, for legislators' use, information on the public employee retirement systems that the committee considers will be valuable to legislators when considering retirement legislation.

(3) The committee may:

(a) specify the date by which retirement board proposals affecting a retirement system must be submitted to the Committee for the review pursuant to subsection (1); and

(b) request personnel from state agencies, including boards, political subdivisions, and the state public employee retirement systems, to furnish any information and render any assistance that the Committee may request."

Special retirement board reports

The two "pension fix" bills that passed the 2013 Session, House Bill 377 and House Bill 454, respectively require that the Teachers' Retirement Board and the Public Employees' Retirement Board to each make a special report to SAVA and the Legislative Finance Committee (LFC).

The reporting provision included in both bills states:

As soon as possible after the completion of each annual actuarial valuation for the [teachers' retirement system or retirement systems administered by the public employees' retirement board], the board shall have its actuary present a detailed actuarial report to the legislative finance committee, provided for in 5-12-201, and the state administration and veterans' affairs interim committee, provided for in 5-5-228. The actuarial report must provide a trend analysis of the system's actual and projected progress toward 100% funding.

PREVIOUS WORK

The Committee's activities and study assignments since the 2005-06 interim are listed below, with the most recent interim activities listed first.

Final reports and meeting materials from previous interims are accessible online at the following link: <http://leg.mt.gov/css/Committees/interim/past-interims.asp>

2015-16: HJR 21 - Study of personal information ownership
 Pension oversight
 Election law clean up
 Veteran suicide prevention (included Native American Veterans and
 suicide prevention in general)

SAVA's 2017 Bills

- HB 71 Require certain licensed health professionals be trained in suicide prevention (*tabled in Senate Public Health, Welfare and Safety*)
- HB 83 Generally revise election laws (*passed and approved*)
- HB 117 Provide appropriation for grants to local veteran suicide prevention efforts (*tabled in House Appropriations, suicide prevention bills combined into HB 118*)
- HB 118 Revising the state suicide prevention program and providing appropriations totaling \$1 million for suicide prevention (*passed and approved*)
- SB 16 Revise fire relief association disability and pension funding requirements (*passed and approved*)
- SB 19 Eliminate information technology reporting requirement to SAVA (*failed 3rd reading in House*)

2013-14: HJR 1 - Study of Office of Commissioner of Political Practices
SJR 14 - Study on combining elections
Pension Oversight
Veterans' Outreach

2011-12: No studies assigned, but SAVA examined:
• Office of Commissioner of Political Practices

2009-10: HB 659 - Study of retirement plan design options
HJR 35 - Study of state employee bonus pay

2007-08: HJR 46 - Study of election laws
HJR 59 - Study of public employee retirement plans

2005-06: HJR 42 - Study of public employee retirement plans

ASSIGNMENT THIS INTERIM

The 2017 Legislature did not pass any study resolutions or bills within SAVA's topic areas of jurisdiction, nor did the Legislative Council refer any issues or other studies for SAVA's consideration this interim.

EMERGING ISSUES

In the absence of an assigned study, SAVA is entirely free to decide on which emerging issues it wants to study this interim.

SAVA member interests

SAVA members identified the following issues as potential study topics this interim:

- **Pension systems - funding and investment returns.** An [actuarial experience study was released in May 2017](#) for the retirement systems administered by MPERA. Based on the actuary's recommendations, the Public Employees' Retirement Board adjusted several of the assumptions to be used when determining the systems' actuarial funding status. The investment return assumption was lowered from 7.75% to 7.65%. Other assumptions were also adjusted. The net impact of the assumption changes on the funding ratio and amortization period for unfunded liabilities is provided in the table below.

System	Funding Ratio (rounded)		Amortization Period	
	Previous Assumptions	Current Assumptions	Previous Assumptions	Current Assumptions
PERS	77%	74%	26 yrs	35 yrs
SRS	83%	80%	Infinite	Infinite
MPORS	69%	67%	18 yrs	20 yrs
GWPORS	84%	81%	Infinite	Infinite
FURS	78%	76%	9 yrs	10 yrs
HPORS	66%	64%	28 yrs	36 yrs
JRS	167%	156%	0 yrs	0 yrs

- **Election administration and voting systems.** Several SAVA members expressed interest in studying election issues ranging from voter registration, voting integrity and system security, all mail ballot elections, absentee voting, and updating voting system technology. [HJR 33](#) (Bennett), which passed the house but died in process in the senate upon adjournment *sine die*, would have requested an interim study on modernizing election infrastructure, technology, and procedures.
- **Campaign practices - contribution limits and process for handling complaints.**
 - ▶ [SB 368](#) (Richmond), which passed both houses of the legislature but was [vetoed by the governor](#), generally revised campaign practices laws. The bill contained the following types of revisions:
 - Revisions of expenditure and contribution limits (i.e., changed limits to be by election cycle instead of by election).
 - Revisions of the process (e.g. requiring mediation) when the Commissioner of Political Practices is investigating complaints.
 - ▶ A court case on Montana's contribution limits is still pending in the federal court system. The U.S. District Court, District of Montana, Helena, decision by Judge Lovell was that Montana's contribution limits were unconstitutionally low. The state appealed this decision to the Ninth Circuit Court of Appeals, which heard oral arguments in March 2017.
- **Veterans issues - suicide prevention and transportation to medical appointments.**
 - ▶ [SAVA's HB 71](#) (McKamey), requiring primary care physicians and other health care professionals that see patients to receive suicidality assessment, treatment, and management training, was tabled in Senate Public Health, Welfare and Safety.
 - ▶ Some special revenue from the sale of license plates and vehicle registration fees is allocated to the Montana Veterans' Affairs Division. The 2017 Legislature appropriated \$100,000 from this special revenue for MVAD-administered grants for the purchase of vehicles to transport veterans to medical appointments. The concern is that the funding may not be adequate and more of the available special revenue could be allocated to transportation needs for veterans.

- **State employee pay plans.**
 - [SB 294 \(2017\)](#) revised laws relating to the state government pay plans. This bill was developed in the wake of a Legislative Finance Committee study under [HJR 17 \(2013\)](#), and a [January 2017 legislative audit report](#) concerning oversight of discretionary pay changes for state employees.
 - Low pay for state correctional officers (i.e., prison guards).

Staff identified issues

Staff has encountered a few topics that the Committee may (or may not) wish to consider examining. These topics and some associated 2017 bills are listed below:

- **Irrigation district election laws.** Staff noticed when drafting bills and amendments during the 2017 session and when listening to hearings on certain bills, that statutes regarding irrigation districts seem to be confusing and outdated. Also, a few bills during the 2017 session took different approaches to amending certain irrigation district election statutes and may have resulted in inconsistent provisions.
 - [HB 388](#) (G. Hertz, passed and approved) revising voter qualifications for certain irrigation district elections.
 - [HB 83](#) section 17 (Bennett, passed and approved) and other statutes in Title 85, chapter 7.
- **Local government election laws.** Staff noticed inconsistencies in certain statutes concerning holding partisan vs. nonpartisan elections for county commissioners and city councils. And, at least one bill addressed the topic.
 - [HB 448](#) (R. Fitzgerald, died in Senate State Administration), would have allowed a local government to refer the question of changing type of election (partisan or nonpartisan) to the electorate.
 - Bills during the 2017 session related to when elections may be canceled or must be held. Also, current statutes treat canceling elections differently depending on whether the election is for a county or municipal office and whether the election is held on a partisan or nonpartisan basis. For example, see:
 - [HB 447](#) (Fitzgerald, passed and approved) allowing the cancellation of uncontested municipal general elections.
 - [SB 178](#) (Swandal, passed and approved) primary must be held in county nonpartisan elections if there are three or more candidates.

- **Local police and fire relief association disability and pension statutes.** Although state money is sent to these local funds, statutes concerning reporting and oversight of these funds, which are governing by local boards of trustees, seem to be outdated and/or inconsistent, so it may be beneficial to carefully review these statutes. See the MCA, [Title 19, chapters 18 and 19](#).
- **Campaign finance law updates.** Some of Montana's statutes concerning the Office of the Commissioner of Political Practices have become unwieldy. The Committee may consider reviewing these statutes with an eye toward possible cleanup revisions. See the MCA, [Title 13, chapter 37, part 1](#).
- **Emergency care for veterans.** SAVA could monitor the [SJR 32](#) study of emergency care provider training and scope of practice. This study was referred to the Economic Affairs Interim Committee because it deals with licensure of "community veteran emergency care providers". The issue was discussed during at least one of SAVA's meetings last interim in relation to veteran suicide prevention. The study bill was drafted after [HB 612](#) (Hopkins) died in Senate Public Health, Welfare, and Safety.

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WORK PLAN CONSIDERATIONS

Available Resources

Budget: \$33,340

Est. cost per mtg: \$ 3,600

Mtg. days funded: 9 days

** Note - if revenue shortfalls trigger 2nd-tier budget cuts, SAVA's budget could be reduced and SAVA would have to cut at least one meeting day.*

Other Considerations

2-day meetings: Two-day meetings save a little money in committee member travel costs, but require more staff preparation and more time between meetings.

Time between mtgs: A minimum of 6 to 8 weeks is needed between meetings to properly prepare the agenda, write requested reports, and coordinate speakers.

Meeting locations: Unless otherwise directed by the committee, all meetings will be held in the Capitol Building. Out-of-town meetings are discouraged because of added costs for staff travel, the lack of audio and video recording capabilities for minutes, and the inability to broadcast or provide on-line public access.

Subcommittees: Section 5-5-211(7), MCA, authorizes an interim committee to create subcommittees and provides that nonlegislators may be appointed as members. A working group, task force, or other *ad hoc* group of the committee is still considered a subcommittee. Subcommittees require the same public notice, minutes, and public participation as a full committee meeting,

Site visits: If directed by the committee, staff may coordinate a site visit as part of the committee's agency monitoring duties or assigned study tasks.

WORK PLAN PRIORITIES

**The following table is offered as a tool to assist the Committee in setting priorities, which will in turn assist the staff in setting workload priorities and proposing meeting agendas.*

Activity	Priority as % of Time	Comments	Estimate of Agenda Hours
Assigned studies			
None assigned			
Statutory oversight duties (20 % - minimum, may be adjusted upward)			
Retirement plan issues	10 % (minimum)	Review actuarial and investment reports, adopt pension policy principles, approve Legislator's Guide	9 hours
Agency oversight, rule review, and agency bill draft proposals	10 % (minimum)	Statute requires agencies to present their legislative proposals to SAVA in order for the bill draft request to be submitted as a bill by request of the agency.	9 hours
Emerging/member issues (80 % - maximum, may be adjusted downward)			
Committee to itemize and prioritize Issue #1 Issue #2 etc.	 #1 = x% #2 = x% etc.	Study issues of interest to SAVA, (e.g., elections, veterans, campaign finance, pension funds, etc.)	45 hours
TOTAL TIME	100%	Assuming 9 meeting days, 7-hours each	63 hours

Decision Point #4: What issues should SAVA adopt as its study priorities this interim?

Decision Point #5: How would the committee like to allocate its time? This is for planning purposes only. If priorities change, the work plan may be adjusted by the Committee as the interim progresses.

PROPOSED TENTATIVE MEETING SCHEDULE

Planning notes:

- *Montana election administrators' annual conference is at Fairmont Hot Springs, Aug. 7-11*
- *NCSL elections staff and other elections experts have offered to travel to Montana to present to the committee on elections issues*
- *Research staff will not be available to support a meeting in early Aug. or early Dec. 2017 due to prior commitments and scheduled leave*
- *PER Board meets the 2nd Thurs of every other month - Aug. 10, Oct 12, Dec. 14, and in 2018 on Feb. 8, April 12, June 14, Aug. 9, and Oct. 11*
- *TRS Board meetings for 2017 are Aug. 4, Oct. 6, Dec. 8*
- *BOI meetings for 2017 are Aug. 22-23, Oct. 3, Nov. 14-15*

2017

July 20	Thurs	Organizational, agency background information and reports, set work plan priorities and tentative meeting schedule
Sept. 14	Thurs	Background on selected study topics Review, revise, and adopt study plan(s)
Nov. 9	Thurs	Review pension plan actuarial reports Research and testimony on selected study topics

2018

Jan. 18	Thurs	Further analysis of identified issues on study topics
March 22	Thurs	Select options for further analysis on study topics
May 18	Thurs	Analyze options with respect to the study topics
July 19	Thurs	Finalize recommendations on all study topics
Aug. 23	Thurs	Review and authorize agency bill draft proposals Review and adopt final report
Nov. 9	Thurs	Pension issues only - actuarial reports, adopt policy principles, approve Legislator's Guide

Decision Point #6: What should be the Committee's work plan/ meeting schedule?

NEXT STEPS

Based on the Committee's decisions about work plan priorities and the meeting schedule, staff will prepare a more detailed interim work schedule and a study plan for each selected study issue. The Committee will need to review, revise, and adopt the final schedule and study plan(s) at the Committee's second meeting. Once adopted, the meeting schedule and study plan(s) may be changed by consensus or a majority vote of the Committee.

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